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OFFICE OF PETITIONS

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|--------------------------------|---|-----------------------|
| In re Application of | : | |
| Markson et al. | : | DECISION ON PETITION |
| Application No. 09/885,290 | : | UNDER 37 CFR 1.137(f) |
| Filed: June 19, 2001 | : | |
| Attorney Docket No. 55218-0519 | : | |

This is a decision on the petition under 37 CFR 1.137(b), which is properly treated as a petition under 37 CFR 1.137(f),¹ filed September 27, 2001, to accept the unintentionally delayed payment of the publication fee in the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned pursuant to 35 USC 122(b)(2)(B)(iii) for failure to timely notify the United States Patent and Trademark Office (Office) of the filing of an application in a foreign country.

A petition under 37 CFR 1.137(f) must be accompanied by the following: (1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;² (2) the petition fee as set forth in 37 CFR 1.17(m); and, (3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

¹ 37 CFR 1.137(f) provides for revival of a nonprovisional application which became abandoned pursuant to the provisions of 35 USC 122(b)(2)(B)(iii) for failure to timely notify the Office of the filing of an application in a foreign country or under a multinational treaty that requires publication of applications eighteen months after filing.

² The filing of a petition under this section will not relieve applicant of the obligation to reply to any outstanding Office action.

The present petition is in compliance with the requirements of 37 CFR 1.137(f). Accordingly, applicant's failure to notify the Office timely of a foreign filing within 45 days as provided by 35 USC 122(b)(2)(B)(iii) is accepted as an unintentionally delay. The Office has processed the request to rescind the previous nonpublication request.

This application is being forwarded to the Office of Initial Patent Examination for further processing and issuing of a corrected filing receipt, indicating a projected publication date.

Telephone inquiries specifically concerning this decision be directed to the undersigned at (703) 306-5589.

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